shipper to get less by paying less caused them to hold valid the limitation of liability to an agreed value. *Graves* v. *Lake Shore, etc. Ry. Co.*, 137 Mass. 33; *Oppenheimer & Co.* v. *U. S. Express Co.*, 69 Ill. 62. See H. E. Willis, "The Right of Bailees to contract against Liability for Negligence," 20 HARV. L. REV. 297, 306. The Federal Supreme Court has, however, held the limitation of liability contracts to be good and, moreover, made the rule the universal one under the Carmack Amendment, so far as loss by negligence is concerned. *Adams Express Co.* v. *Croninger*, 226 U. S. 491; *Boston & Maine Ry. Co.* v. *Hooker*, 233 U. S. 97. Granting that the limitation is valid as applied to negligent acts of the carrier's servants it would not be expedient to differentiate the case where the servant's conduct is made worse only by adding a *mens rea*. But see *The New England*, 110 Fed. 415, 420; *Southern Express Co.* v. *Gutman*, 6 Ky.L. R. 587.

CHOSES IN ACTION — PARTIAL ASSIGNMENT — WHETHER JUDGMENT IN FAVOR OF PARTIAL ASSIGNEE BARS ASSIGNOR. — An unlawfully discharged employee had an unliquidated claim for damages against his employer. The employee assigned such damages as should accrue up to a certain date, and reserved after-accruing damages. The assignee sued the employer in the municipal court and recovered. The assignor now sues the employer at law for the balance of the claim, and the employer pleads in bar the prior judgment recovered by the assignee. *Held*, that the assignor may recover. *Carvill* v. *Mirror Films, Inc.*, 56 N. Y. L. J. 1861 (App. Div.).

At common law, a partial assignee had standing only in equity. See *James* v. *Newton*, 142 Mass. 366, 8 N. E. 122. Nor have modern codes enabling an assignee to sue at law in his own name generally been extended to partial assignees. *In re Stiger*, 202 Fed. 791. But *cf. Skipper* v. *Holloway*, [1910] 2 K. B. 630; *Caledonia Ins. Co.* v. *Northern Pacific Ry. Co.*, 32 Mont. 46, 79 Pac. 544; *Gaugler* v. *Chicago, etc. Ry. Co.*, 197 Fed. 79. In New York, however, the law has undergone an independent development, and seems still unsettled. It has been said, on the one hand, that the only remedy was equitable. *Chambers* v. *Lancaster*, 160 N. Y. 342, 348, 54 N. E. 707, 708; *King* v. *King*, 73 App. Div. 547, 77 N. Y. Supp. 40; *Thompson* v. *Gimbal Bros.*, 71 Misc. 126, 128 N. Y. Supp. 210. Earlier decisions, however, not expressly overruled, allowed the assignee a legal action. *Morton* v. *Naylor*, 1 Hill 583; *Risley* v. *Phenix Bank, etc.*, 83 N. Y. 318, 329; *Chase* v. *Deering*, 104 App. Div. 192, 93 N. Y. Supp. 434. A middle position is to the effect that the assignee may sue at law by joining the assignor as co-plaintiff, and non-joinder is demurrable. *Dickinson* v. *Tyson*, 125 App. Div. 735, 110 N. Y. Supp. 269. On practical grounds this latter doctrine appears the most advantageous. Legal enforcement runs afoul of difficulties of procedure or of policy. Only joint obligees could sue jointly at common law, and a partial assignee was not a joint obligee. If separate actions were allowed, the debtor would be subjected to undue litigation, or else a judgment recovered by an assignee would bar the assignor and other assignees. Yet if the right is purely equitable, the claim is *pro tanto* withdrawn from jury trial, and a later total assignment might arguably cut the assignee off. See Williston, "Is the Right of Assignee of a Chose in Action Legal or Equitable?", 30 HARV. L. REV. 97, 104. It is best, therefore, to treat the right as legal-equitable, the assignor and assignee being equitable tenants in common, and the assignor being legal owner of the share assigned, subject, however, to a legal "power" in the assignee, upon notice to the debtor. See Cook, "Alienability of Choses in Action," 30 HARV. L. REV. 449, 482; Cook, "Alienability of Choses in Action," 29 HARV. L. REV. 816, 820. The liberal tendency to allow joinder of parties whose rights are not technically joint, is instanced also by the joinder at law of tenants-in-common, and co-owners of other separate interests in land. *Cf. School Districts* v. *Edwards*, 46 Wis. 150,

49 N. W. 968; *Watson* v. *Milwaukee, etc. Ry. Co.*, 57 Wis. 332, 15 N. W. 468. If, as in the principal case, the debtor fails to demur for non-joinder of the assignor, a waiver of his rights against a splitting of the cause of action may well be implied, and hence the assignee's judgment should not bar later actions.

DAMAGES — LIQUIDATED DAMAGES — WHETHER DEMURRAGE RATE APPLIES TO UNREASONABLE DELAY. — The defendant was a charterer of a ship under a charter party which provided five lay days for loading, with payment of demurrage at a fixed rate per day after that. After detention of the ship for a reasonable time beyond the lay days plaintiff gave defendant notice that he would no longer accept the demurrage rate, but would hold the defendant for actual damages. The defendant declined to agree to this. The boat was retained some time longer, for which detention plaintiff seeks to recover actual damages. *Held*, that the plaintiff may recover only the demurrage rate. *Inverkip Steamship Co.* v. *Bunze*, [1917] 1 K. B. 31.

Demurrage may be considered either as an optional right in the charterer to retain the ship on paying a certain sum therefor, or as liquidated damages for a breach of the contract. If the first view be taken the option must be regarded as lasting only a reasonable time, and when the option expires, of course the provision for payment would end, and any further detention would be a breach for which actual damages could be recovered. *Western Transport Co.* v. *Barley*, 56 N. Y. 544. See *Lilly & Co.* v. *Stevenson & Co.*, 22 R. 278, 286. See CARVER, CARRIAGE OF GOODS BY SEA, 3 ed., § 609; STEVENS, DEMURRAGE, 69. This result has the advantage that it does not force the shipowner to either leave the boat for an indefinite period, and recover only a fraction of the actual damages, or take the boat away and suffer perhaps much greater damage for which he must rely on his action against the charterer. But the true construction of the contract in the principal case seems to be that the contract is to load the ship during the lay days, and pay damages at a liquidated rate for further detention; the unqualified statement "demurrage at so much per day" seems to indicate clearly that that rate of damages was relied on so long as the contract should remain in force. *Western Steamship Co.* v. *Amaral Sutherland Co.*, [1913] 3 K. B. 366. See SCRUTTON, CHARTERPARTIES AND BILLS OF LADING, 6 ed., art. 128. Had the defendant merely continued to use the boat after notice by the plaintiff he might be held to have impliedly consented to pay the actual damage, but his refusal to agree forbids such a construction of his actions. *Hagan* v. *Tucker*, 118 Fed. 731. See WALD'S POLLOCK ON CONTRACTS, 3 ed., 9.

DESCENT AND DISTRIBUTION — HOMICIDE BY INSANE HEIR. — An infant who had inherited real and personal property was killed by her insane mother, who then committed suicide. The child's property is claimed by both the mother's heirs and those who would be the child's heirs were the mother disqualified. *Held*, that the property became vested in the mother and passed to her heirs. *Re Estate of Maude Mason*, 31 Dom. L. R. 305 (Br. Col.).

For a discussion of the principles involved in this case, see NOTES, p. 622.

DOWER — VOID DIVORCE — ESTOPPEL IN PAIS — EFFECT OF IGNORANCE OF ONE'S RIGHTS. — Plaintiff secured a rabbinical divorce from R., and both parties, believing the divorce valid, "married" again. Plaintiff had knowledge of R.'s "remarriage." Plaintiff then removed from New York to Kansas. Twenty years after the separation, shortly after R.'s death, plaintiff learned that the divorce was invalid. She now claims dower in land acquired by R. and conveyed to an innocent purchaser in the interval. *Held*, she is equitably estopped from asserting her legal right to dower. *Kantor* v. *Cohn*, 56 N. Y. L. J. 1339 (Sup. Ct., King's Cty.).

Some courts have held that where the right of dower is statutory it can be barred only in such manner as the statute expressly provides. *McCreery* v.